

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 3:02-00200-01
(CIVIL ACTION NO. 3:04-0777)

JUAN NICHOLAS
also known as "Scan"

ORDER

This action was referred to the Honorable Maurice G. Taylor, Jr., United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that counsel be appointed for Juan Nicholas and that he be brought before the Court for re-sentencing due to an erroneous application of the career criminal provisions under the US Sentencing Guidelines. The United States responded in agreement to the Magistrate Judge's findings and recommendation as to re-sentencing.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge as to re-sentencing the Defendant and **DIRECTS** that counsel be appointed for Juan Nicholas and **SCHEDULES** a re-sentencing hearing for **November 27, 2006**, at **1:30 p.m.** in **Huntington**. The remaining findings of fact and recommendations of the Magistrate Judge remain pending and Defendant must file any objections to those matters by October 5, 2006.

The Court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, Magistrate Judge Taylor, Rebecca Jarvis in the Office of the Federal Public Defender, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: September 28, 2006

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE